HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Appl. No.508 of 2005

Abdul Majid S/o Sri Salaru
R/o village Salempur Mehdood
P.S. Ranipur
District Haridwar .....Applicant

Versus

1. State of Uttaranchal
2. District & Session Judge
   District Haridwar
3. Chief Judicial Magistrate
   District Haridwar
4. Sewa Ram C/o Shri Monu
   S/o Bharta
5. Monu S/o Shri Bharta
6. Rishi S/o Shri Prakash
7. Sudesh S/o Shri Hariya
8. Nitu S/o Sri Bharta
9. Kallu S/o Ram Prashad
10. Lall S/o

All 4 to 11 R/o village Meerpur
P.S. Ranipur
District Haridwar .....Respondents

Date:- 10th August, 2005

Hon'ble J. C. S. Rawat, J.

1. Heard Sri Arvind Kumar Sharma learned counsel for the applicant and learned A.G.A. for the State.

2. This petition under section 482 Cr.P.C. was filed for quashing the orders dated 19.4.2005 passed by the Sessions Judge, Haridwar in criminal revision No.127/2005 and dated 3.3.2005 passed by the Chief Judicial Magistrate, Haridwar in criminal misc. case No.201/2004 under section 379 I.P.C.

3. It has been alleged that the applicant is the recorded tenure holder of Khasra No.2160 and on 4.10.2003 at 9PM the respondent No.4-10 with

dishonest intention have cut down about 40 tress from the Khasra No.2160 and removed them from the spot with dishonest. When the FIR was not lodged by the police the applicant moved an application under section 156(3) Cr.P.C. before the Chief Judicial Magistrate, Haridwar against the respondent No.4 to 10 and other unknown persons on 14.11.2003. Thereafter, the learned Magistrate directed to lodge the FIR and to investigate the matter. Thereafter, the Investigating Officer has submitted the final report dated 15.12.2003. Feeling aggrieved by this, the applicant has filed the protest petition dated 30.9.2004. While rejecting the protest petition, the learned Magistrate accepted the final report vide its order dated 3.3.2005. Feeling aggrieved by this, the applicant preferred a revision before the Sessions Judge and the Sessions Judge dismissed the said revision vide its order dated 19.4.2005. Feeling aggrieved by this, applicant has come up before this Court.

4. The Investigating Officer has clearly stated in the final report that there is no sufficient evidence to proceed under section 379 I.P.C. against the accused persons. The I.O. has also found that there was a dispute with regard to the cutting of trees and there was an agreement between the accused and the complainant. The I.O. has also recommended that a proceeding under section 182 be initiated against the complainant-applicant. The learned Magistrate has also considered the evidence recorded by the I.O. The learned Magistrate has also discussed the evidence as well as the other relevant facts. I do not find any illegality and perversity in the order of the court below.

5. In view of the above, the petition is devoid of merit. Therefore, the petition is dismissed in limine.

(J. C. S. Rawat, J.)

Dated 10.8.2005

LSR